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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/665,736	09/17/2003	George Filley	N0171US	4664

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EXAMINER

SMITH, JEFFREY S

ART UNIT	PAPER NUMBER
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2624

SHORTENED STATUTORY PERIOD OF RESPONSE	MAIL DATE	DELIVERY MODE
3 MONTHS	03/30/2007	PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

If NO period for reply is specified above, the maximum statutory period will apply and will expire 6 MONTHS from the mailing date of this communication.

Office Action Summary	Application No. 10/665,736	Applicant(s) FILLEY ET AL.	
	Examiner Jeffrey S. Smith	Art Unit 2624	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 02 March 2007.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-28 is/are pending in the application.
- 4a) Of the above claim(s) 24-27 is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-23 and 28 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☒ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 17 September 2003 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|---|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)
Paper No(s)/Mail Date <u>See Continuation Sheet</u> . | 6) <input type="checkbox"/> Other: _____ |

Continuation of Attachment(s) 3). Information Disclosure Statement(s) (PTO/SB/08), Paper No(s)/Mail Date :12/05, 10/05, 9/05, 7/05, 5/10/04, 5/3/04, 2/04, 1/04.

DETAILED ACTION

Election/Restrictions

1. Claims 24-27 are withdrawn from further consideration pursuant to 37 CFR 1.142(b), as being drawn to nonelected species, there being no allowable generic or linking claim. Claim 1 is a method claim that corresponds to the embodiment shown in figure 2, which is performed on the apparatus of figure 1. Claim 1 is generic to dependent claims 2-23. Claim 28 is a method claim that corresponds to the embodiment shown in figure 4, which is performed on the apparatus of figure 1. Claims 24-27, which do not correspond to the embodiment shown in figure 1, are withdrawn from consideration.

Applicant timely traversed the restriction (election) requirement in the reply filed on March 2, 2007. The traversal is on the ground(s) that a hybrid version of the invention is shown in the apparatus of figure 7. This is not found persuasive because Applicant has not alleged that the other embodiments such as a first embodiment on page 3, a second embodiment on page 4, a third embodiment on page 8, a fourth embodiment on page 10, a fifth embodiment on page 11, and numerous additional alternative embodiments from pages 12-18 are not patentably distinct from the hybrid embodiment of Figure 7. Should applicant traverse on the ground that the species are not patentably distinct, applicant should submit evidence or identify such evidence now of record showing the species to be obvious variants or clearly admit on the record that this is the case. In either instance, if the examiner finds one of the inventions unpatentable over the prior art, the evidence or admission may be used in a rejection

under 35 U.S.C. 103(a) of the other invention. The requirement is still deemed proper and is therefore made FINAL.

Information Disclosure Statement

2. The information disclosure statement filed October 14, 2005 fails to comply with the provisions of 37 CFR 1.97, 1.98 and MPEP § 609 because reference A4 has a document number that is inconsistent with the date, name and class/subclass. It has been placed in the application file, but the information referred to therein as A4 has not been considered as to the merits. Applicant is advised that the date of any re-submission of any item of information contained in this information disclosure statement or the submission of any missing element(s) will be the date of submission for purposes of determining compliance with the requirements based on the time of filing the statement, including all certification requirements for statements under 37 CFR 1.97(e). See MPEP § 609.05(a). The abstracts of the other references cited in the several information disclosure statements have been considered on the merits, however given the volume of references cited, additional information is required from applicant to fully consider each reference on the merits as discussed in paragraph 3 of this Office action.

Requirement For Information

3. Applicant and the assignee of this application are required under 37 CFR 1.105 to provide the following information that the examiner has determined is reasonably necessary to the examination of this application.

The Examiner appreciates the search of the prior art and the submission of information material to patentability performed by applicant. Given the large volume of references cited by the applicant in the information disclosure statement (IDS), additional information about the relevance of each reference is needed in order to effectively consider the cited references. In response to this requirement, please provide answers to each of the following interrogatories eliciting factual information known to applicant:

Identify the column and line numbers of each reference cited in the IDS that discloses "when storing each digital photograph in the data repository, associating each digital photograph with data that indicate a physical location."

Identify the column and line numbers of each reference cited in the IDS that discloses "providing a search function available to the users over the network that enables users to search by physical location for digital photographs stored by other users."

Identify the column and line numbers of each reference cited in the IDS that discloses "providing a search function available to the users ... that enables users to search by physical location for digital photographs"

Identify the column and line numbers of each reference cited in the IDS that discloses "providing a search function available to the users over the network that enables users to search ... for digital photographs stored by other users."

Identify the column and line numbers of each reference cited in the IDS that discloses "allowing users to select digital photographs stored by other users."

Identify the column and line numbers of each reference cited in the IDS that discloses "transmitting copies of the selected digital photographs to the users who selected them over the network."

Identify the column and line numbers of each reference cited in the IDS that discloses "storing data in a computing system to indicate a user-selected subject matter category."

Identify the column and line numbers of each reference cited in the IDS that discloses "determining locations of the user as the user travels through a geographic location."

Identify the column and line numbers of each reference cited in the IDS that discloses "using a geographic database to compare locations of the user to locations of places that match the user-selected subject matter category."

Identify the column and line numbers of each reference cited in the IDS that discloses "informing the user when the user is in proximity to one place that matches the user-selected subject matter category."

Applicant is reminded that failure to fully reply to this requirement for information will result in a holding of abandonment. This requirement is an attachment of the enclosed Office action. A complete reply to the enclosed Office action must include a complete reply to this requirement. The time period for reply to this requirement coincides with the time period for reply to the enclosed Office action.

Specification

4. The following is a quotation of the first paragraph of 35 U.S.C. 112:

The specification shall contain a written description of the invention, and of the manner and process of making and using it, in such full, clear, concise, and exact terms as to enable any person skilled in the art to which it pertains, or with which it is most nearly connected, to make and use the same and shall set forth the best mode contemplated by the inventor of carrying out his invention.

The disclosure is objected to because on page 3 of the application says that "The devices 128 may use any means now known or developed in the future for interfacing with the network 134." The specification does not enable any person skilled in the art to make and use "means...developed in the future." Therefore applicant must remove the phrase "or developed in the future." If similar terms or phrases appear in other parts of the application, these terms must also be removed. Appropriate correction is required.

Claim Rejections - 35 USC § 102

5. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

Claim 28 is rejected under 35 U.S.C. 102(e) as being anticipated by U.S. Patent Number 6,691,032 issued to Irish et al. ("Irish").

Irish discloses a method of enabling a user to take photographs of a place of interest (preamble has no patentable weight because it does not breath life and

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meaning into the body of the claim) comprising: storing data in a computing system to indicate a user-selected subject matter category (abstract, define zones of influence; figure 1A points of interest database); determining locations of the user as the user travels through a geographic region (abstract, location of user device); using a geographic database to compare locations of the user to locations of places that match the user-selected subject matter category (figure 1A, points of interest database and gps link with wcd); and informing the user when the user is in proximity to one place that matches the user-selected subject matter category (abstract, user-definable event is triggered when the location of the user device correlates to the stored geolocational data for the trigger condition).

Claim Rejections - 35 USC § 103

6. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

7. Claims 1-7, 9, 12-15 and 18-22 are rejected under 35 U.S.C. 103(a) as being unpatentable over U.S. Patent Number 6,950,198 issued to Berarducci et al. ("Berarducci") in view of U.S. Patent Number 6,914,626 issued to Squibbs ("Squibbs").

For claim 1, Berarducci discloses a method of storing photographs comprising providing a data repository on a network accessible to a plurality of users who have digital photographs, wherein the digital photographs are comprised of data files in a

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suitable format (column 1 lines 57-65); receiving digital photographs from the users over the network (column 1 lines 57-65); storing the digital photographs in the data repository (column 1 lines 57-65); when storing each digital photograph in the data repository, associating each digital photograph with data (column 1 lines 57-65); providing a search function available to the users over the network that enables users to search for digital photographs stored by other users (column 1 lines 57-65); allowing users to select digital photographs stored by other users (column 1 lines 57-65); and transmitting copies of the selected digital photographs to the users who selected them over the network (column 1 lines 57-65).

Berarducci does not disclose associating each digital photograph with data that indicate a physical location and enabling users to search by physical location for digital photographs.

Squibbs discloses associating each digital photograph with data that indicate a physical location and enabling users to search by physical location for digital photographs (abstract).

It would have been obvious to one of ordinary skill in the art at the time of invention to modify the remote image memory device of Bararducci with the location data of Squibbs because augmenting digital photographs with location data facilitates the making of collections of photographs as taught by Squibbs at column 1 lines 60-64.

For claim 2, Squibbs discloses for some of the digital photographs stored in the data repository, associating additional data with the digital photograph and storing the

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additional data in the data repository, wherein the additional data indicates an orientation (column 1 lines 20-21).

For claim 3, Berarducci discloses for some of the digital photographs stored in the data repository, associating additional data with the digital photograph and storing the additional data in the data repository, wherein the additional data restrict which other users may obtain a copy of the digital photograph (column 1 line 67).

For claim 4, Berarducci discloses for some of the digital photographs stored in the data repository, associating additional data with the digital photograph and storing the additional data in the data repository, wherein the additional data indicate an owner of the digital photograph (column 1 lines 57-65).

For claim 5, Squibbs discloses for some of the digital photographs stored in the data repository, associating additional data with the digital photograph and storing the additional data in the data repository, wherein the additional data indicate a date on which the digital photograph was taken (fig. 4).

For claim 6, Squibbs discloses for some of the digital photographs stored in the data repository, associating additional data with the digital photograph and storing the additional data in the data repository, wherein the additional data indicate a date on which the digital photograph was deposited in the data repository (fig. 4).

For claim 7, Squibbs discloses for some of the digital photographs stored in the data repository, associating additional data with the digital photograph and storing the additional data in the data repository, wherein the additional data provide a description of the digital photograph (fig. 4).

For claim 9, Berarducci discloses for some of the selected digital photographs transmitted to users, charging the users a fee for the selected digital photographs (fig. 2B).

For claim 12, Squibbs discloses the physical location associated with the digital photograph indicates the location of an object in the digital photograph (fig. 4).

For claim 13, Squibbs discloses the data that indicate a physical location is obtained, for at least some of the digital photographs, from positioning equipment associated with the camera that took the photograph (fig. 1).

For claim 14, Squibbs discloses the data that indicate a physical location is obtained from the user from whom the associated digital photograph was received (fig. 4).

For claim 15, Squibbs discloses when receiving digital photographs from users, requesting each user to indicate the physical location to be associated with the digital photograph (fig. 4).

For claim 18, Berarducci and Squibbs each disclose for some of the digital photographs received from users, allowing the users to associate a plurality of digital photographs as a related group (abstract).

For claim 19, Squibbs discloses the search function allows a user to specify a physical location by distance from a reference point (zoom in and out shown in fig. 7).

For claim 20, Squibbs discloses the search function allows a user to specify a physical location by a bounding area (map of fig. 7).

For claim 21, Berarducci discloses establishing groups of users, wherein each group comprises a subset of all users; and restricting exchange of digital photographs stored in the data repository by members of a group to only members of the group (column 1).

For claim 22, Squibbs discloses the search function supports free text searches (using data shown in fig. 4).

8. Claim 8 is rejected under 35 U.S.C. 103(a) as being unpatentable over Berarducci in view of Squibbs as applied to claim 1 above, and further in view of U.S. Patent Number 6,977,679 issued to Tretter et al. ("Tretter").

For claim 8, Berarducci and Squibbs disclose the elements of claim 1.

Tretter discloses for some of the digital photographs stored in the data repository, associating additional data with the digital photograph and storing the additional data in the data repository, wherein the additional data include a focal length used for the digital photograph (abstract).

It would have been obvious to one of ordinary skill in the art at the time of invention to record the focal length with the digital photographs of Berarducci and Squibbs for the benefit of categorizing non-textual subject data such as digital images as taught by Tretter in the abstract.

9. Claim 10 is rejected under 35 U.S.C. 103(a) as being unpatentable over Berarducci and Squibbs as applied to claim 1 above, and further in view of U.S. Patent Number 7,100,190 issued to Johnson et al. ("Johnson").

Berarducci and Squibbs disclose the elements of claim 1.

Johnson discloses storing links to web cams in the data repository; when storing each link to a web cam in the data repository, associating each link to a web cam with data that indicate a physical location, wherein the physical location indicates where the web cam associated with the link is located; providing a search function available to the users over the network that enables users to search by physical location for web cam links stored by other users; allowing users to select links to web cams of other users; and transmitting the respective selected web cam links to the users who selected them over the network (abstract).

It would have been obvious to one of ordinary skill in the art at the time of the invention to combine the webcam network with the digital photograph network of Berarducci and Squibbs for the benefit of permitting users to take virtual trips as taught by Johnson in the abstract.

10. Claim 11 is rejected under 35 U.S.C. 103(a) as being unpatentable over Berarducci and Squibbs as applied to claim 1 above, and further in view of U.S. Patent Number 6,965,828 issued to Pollard.

Berarducci and Squibbs disclose the elements of claim 1.

Pollard discloses the physical location associated with the digital photograph indicates a vantage point of the digital photograph (column 8 line 61).

It would have been obvious to one of ordinary skill in the art at the time of the invention to indicate the vantage point of the location for the benefit of offering information or providing services relevant to that location as taught by Pollard in column 1 lines 24-38.

11. Claims 16, 17 and 23 are rejected under 35 U.S.C. 103(a) as being unpatentable over Berarducci and Squibbs as applied to claim 1 above, and further in view of U.S. Patent Number 7,135,994 issued to Kamikawa et al. ("Kamikawa").

Berarducci and Squibbs disclose the elements of claim 1.

Kamikawa discloses making the data repository accessible to a map developer; and allowing the map developer to update maps using the digital photographs stored in the data repository (abstract).

It would have been obvious to one of ordinary skill in this art at the time of the invention to include the route guidance of Kamikawa with the digital photographs of Berarducci and Squibbs for the benefit of using actual buildings as landmarks as taught by Kamikawa in column 1.

For claim 17, Kamikawa discloses for some of the copies of selected digital photographs transmitted to users over the network, providing the users with route guidance for traveling to the respective locations shown in the digital photographs (figure 12).

For claim 23, Kamikawa does not expressly disclose the data repository automatically recognizes potential placenames when users enter text to be associated with digital photographs being stored. The Examiner takes Official notice that global positioning systems (GPS) such as the GPS shown by Kamikawa typically are able to automatically recognize potential placenames when a user enters text.

12. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

U.S. Patent Number 7,171,113 issued to Parulski et al. discloses a digital camera for associating metadata such as location information with digital images as shown in figure 4.

U.S. Patent Number 7,197,158 issued to Camara et al. discloses a method of generating metadata for digital images as shown in figure 4.

13. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Jeffrey S. Smith whose telephone number is 571 270-1235. The examiner can normally be reached on M-F.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Jingge Wu can be reached on 571 272-7429. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

JSS
March 26, 2007


JINGGE WU
SUPERVISORY PATENT EXAMINER